

6/28/99 7:40:42 PM
Page 1

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/25/99**

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Assembly Democratic Caucus**

By/Representing: **Twigg**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters: **olsenje**

Subject: **Fin. Inst. - miscellaneous
Fin. Inst. - WCA
Trade Regulation
Correctional System - misc**

Extra Copies: **MGG
MGD**

Pre Topic:

No specific pre topic given

Topic:

Privacy

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan	jgeller		_____			
	06/25/99	06/26/99		_____			
	olsenje			_____			
	06/25/99			_____			
	rmarchan			_____			
	06/26/99			_____			
/1			kfollet	_____	gretskl	lrb_docadmin	
			06/27/99	_____	06/27/99	06/28/99	

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/?	rmarchan 06/25/99 olsenje 06/25/99 rmarchan 06/26/99	ygeller 06/26/99		_____			
/1			kfollet 06/27/99	_____	gretskl 06/27/99		

6/27/99 1:24:00 PM

Page 2

FE Sent For:

<END>

6/25/99 4:11:05 PM
Page 1

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/?	rmarchan	1 6/26 JG	KJf 6/26	KJf/mc 6/26			

FE Sent For:

<END>

**The Information Age Privacy Protection Amendment:
Drafting Instructions**

Please draft the following items as a single amendment to the ~~CCP~~^{JFC} substitute.

- Require shredding of personal/sensitive information: Use language from AB 102
- Provide right for removal from marketing lists: Use language already submitted by Rep. Schneider
- Provide for free annual credit reports: Use language from AB 289 ✓
- Prohibit the resale of data related to credit card transactions: Use language from AB 101 ✓
- Prohibit prison inmates from engaging in telemarketing: Use language from both AB 24 and AB 31 ✓

Contact: George Twigg, 7-5155; 280-9052 (home)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1292/1
RJM/JEO/RNK:.....

ADD

SOON

jlg

RMR

DATE

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~
**ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

✓ 1 At the locations indicated, amend the substitute amendment as follows:

INS 1-2 2 1. Page 1139, line 11: after that line insert:

INS 1-3 3 2. Page 1139, line 23: after that line insert:

4 3. Page 1314, line 17: delete that line and substitute "✓(1) In this section:

5 (a) "Financial transaction card" has the meaning given in s. 943.41". ✓

6 4. Page 1314, line 18: after that line insert:

7 text: treat (b) "Personal information" includes an individual's address, telephone
8 number, marital status, gender, race, religious affiliation, date or place of birth, place
9 of or type of employment or any other information that may be used to identify an
10 individual."

11 5. Page 1314, line 21: delete "an" and substitute "to" any".

1 **6.** Page 1314, line 22: after "social security number" insert "or to any personal
2 information relating to an individual who is not a prisoner". ✓

3 **7.** Page 1363, line 15: after that line insert:
4

5 **8.** Page 1431, line 11: after that line insert:
6

7 **9.** Page 1431, line 12: before that line insert:
8

9 **10.** Page 1604, line 6: ~~am~~¹ that line insert:
10

11 ~~(5)~~^b DISPOSAL OF PERSONAL INFORMATION. The ~~provision~~^{before treatment} of section 895.505 of the
12 statutes first applies to records disposed on the effective date of this subsection. ✓

13 ~~(5)~~^{bc} SALE OR LEASE OF PERSONAL INFORMATION. The ~~provision~~^{treatment} of section 895.507 ✓
14 of the statutes first applies to the sale or lease of records on the effective date of this
15 subsection. ✓

16 ~~(5)~~^{bd} DISCLOSURE OF CREDIT CARD RECORDS. The ~~provision~~^{treatment} of section 138.25 of the
17 statutes first applies to disclosures of information or data on the effective date of this
18 subsection. ✓

19 ~~(5)~~^{be} CONSUMER REPORTING AGENCIES. The ~~provision~~^{treatment} of subchapter VI of chapter
20 422 ~~the statutes first applies to requests for reports made on~~
21 the effective date of this subsection." ✓

22 **11.** Page 1617, line 16: after that line insert:
23

(END) ✓

INSERT

1-2

(P. 1 of 3)

1999 - 2000 LEGISLATURE

LRB-0680/1

RNK:kmg:ijs

1999 ASSEMBLY BILL 24

January 14, 1999 - Introduced by Representatives SCHNEIDER, TURNER, STASKUNAS, BOYLE, BOCK, AINSWORTH, RILEY, PLOUFF, KREUSER, LASSA, REYNOLDS and RYBA, cosponsored by Senator WELCH. Referred to Committee on Corrections and the Courts.

- 1 **AN ACT to create** 134.73 of the statutes; **relating to:** regulating telephone
2 solicitation by prisoners and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a prisoner in a correctional facility from conducting a telephone solicitation unless the prisoner immediately identifies himself or herself as a prisoner, states his or her name and the name and location of his or her correctional facility and states the name of the person on whose behalf he or she is conducting the telephone solicitation.

A telephone solicitor who violates the disclosure requirements must forfeit \$10,000 for each violation. The department of justice is authorized to enforce these disclosure requirements.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

③

"SECTION 1. 134.73 of the statutes is created to read:

4

134.73 Telephone solicitation by prisoners. (1) DEFINITIONS. In this

5

section:

INSERT

1-2

(p. 2 of 3)

1999 - 2000 LEGISLATURE

LRBa0187/1

RNK:jlglp

**ASSEMBLY AMENDMENT 1,
TO 1999 ASSEMBLY BILL 24**

~~March 16, 1999 - Offered by Representative STASKUNAS~~

1 ~~At the locations indicated, amend the bill as follows:~~

2 ~~1. Page 1, line 5: after that line insert:~~

3 ~~(a) "Charitable organization" means an organization that is described in~~
4 ~~section 501 (c) (3) of the Internal Revenue Code and that is exempt from taxation~~
5 ~~under section 501 (a) of the Internal Revenue Code.~~

6 ~~2. Page 2, line 1: delete "(a)" and substitute "(b)"~~

7 ~~3. Page 2, line 3: delete that line and substitute:~~

8 ~~(c) "Telephone solicitation" means the unsolicited initiation of a telephone~~
9 ~~conversation for the purpose of encouraging a person to purchase property, goods or~~
10 ~~services or to make a contribution to a charitable organization.~~

11 (END)

text:
treat (b) "Correctival facility" means a facility in
which a person is incarcerated to serve a sentence
imposed for a conviction for a crime.

ASSEMBLY BILL 24

SECTION 1

INSERT 1-2
(P. 3 of 3)

1 (a) "Correctional facility" means a facility in which a person is incarcerated to
2 serve a sentence imposed for conviction of a crime.

3 (b) "Telephone solicitation" has the meaning given in s. 134.72 (1) (c).

4 (2) PROHIBITIONS. No prisoner in a correctional facility may conduct a telephone
5 solicitation unless the prisoner immediately identifies himself or herself as a
6 prisoner, states his or her name and the name and location of his or her correctional
7 facility and states the name of the person on whose behalf he or she is conducting the
8 telephone solicitation.

9 (3) TERRITORIAL APPLICATION. This section applies to an intrastate telephone
10 solicitation and to an interstate telephone solicitation directed to or received by a
11 person in this state.

12 (4) PENALTY; ENFORCEMENT. (a) A person who violates sub. (2) shall forfeit
13 \$10,000 for each violation.

14 (b) The attorney general and the district attorneys of this state have concurrent
15 authority to institute civil proceedings under this section.

16 (c) 1. In addition to or in lieu of seeking the penalty under par. (a), the attorney
17 general or a district attorney may institute injunctive proceedings to enforce sub. (2).

18 2. A person who violates the terms of an injunction issued under subd. 1. shall
19 forfeit \$10,000 for each violation. " " ←

20 ~~END~~

(end ins 1-2)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0666/1
KSH:wlj&jlg:jf

INSERT 1-3

1999 ASSEMBLY BILL 101

February 9, 1999 - Introduced by Representatives SCHNEIDER, TRAVIS, STASKUNAS, MUSSER, POCAN, AINSWORTH, J. LEHMAN, BOCK, MILLER, BLACK, KREUSER, GOETSCH, RYBA, KRUG, GRONEMUS, GUNDERSON and BOYLE, cosponsored by Senators ERPENBACH, FARROW and DARLING. Referred to Committee on Judiciary and Personal Privacy.

1 **AN ACT to create 138.25 of the statutes; relating to: credit card records and**
2 **providing a penalty.**

Analysis by the Legislative Reference Bureau

Current law is silent regarding a person's authority to sell information about credit cardholders. Under this bill, a person (which includes a corporation) may not sell information about Wisconsin residents that is obtained from credit card transaction records. The bill provides for certain exceptions from this prohibition. First, the bill excepts disclosures to credit reporting agencies for the purpose of preparing a credit report. The bill also contains certain exceptions for disclosing information to affiliates of the issuer and to contractors or agents of the issuer for the purpose of performing functions for or on behalf of the issuer. Persons violating the disclosure provisions created in the bill are subject to a forfeiture of not more than \$10,000 for each violation. The bill also authorizes the department of justice to bring actions in circuit court to enjoin violations of the disclosure provisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 ✓ (2170m) "SECTION 1. 138.25 of the statutes is created to read:
4 **138.25 Credit card records. (1) DEFINITIONS.** In this section:
5 (a) "Cardholder" has the meaning given in s. 943.41 (1) (b).
- ↓

INS 1-3 cont

(b) "Consumer report" has the meaning given in 15 USC 1681a (d).

(c) "Consumer reporting agency" has the meaning given in 15 USC 1681a (f).

(d) "Financial transaction card" has the meaning given in s. 943.41 (1) (em).

(2) DISCLOSURE PROHIBITED. Except as provided in sub. (3), a person may not disclose to another person, for money or anything else of value, any information or data about a cardholder who is a resident of this state that is obtained by the person from financial transaction card transaction records.

(3) EXCEPTIONS. A person may disclose information about a cardholder if any of the following apply:

(a) The disclosure is made to a consumer reporting agency for purposes of a consumer report.

~~(b)~~ The disclosure is made to the cardholder.

~~(b)~~ The disclosure is made to or by persons that are affiliated with the issuer of the financial transaction card by common ownership or control solely for the purpose of performing functions for or on behalf of the issuer. The affiliated person may not disclose any information received pursuant to this paragraph to a person other than the issuer, unless the issuer could make the disclosure under this section.

~~(c)~~ If the issuer of the financial transaction card is a retailer, the disclosure is made to or by contractors or agents of the issuer for the purposes of performing functions for or on behalf of the issuer. The contractor or agent may not disclose any information received pursuant to this paragraph to a person other than the issuer, unless the issuer could make the disclosure under this section.

(4) FORFEITURE. A person who violates sub. (2) may be required to forfeit not more than \$10,000 for each violation. Each disclosure of information or data about one cardholder constitutes a separate violation.

↓

1 (5) INJUNCTION. The department of justice may commence an action in circuit
2 court in the name of the state to restrain by temporary or permanent injunction any
3 act or practice constituting a violation of sub. (2).)) ✓

4

END
Cend of ins 1-3)

ASSEMBLY BILL 289

and may be fined up to \$1,000 or imprisoned for up to six months or both for a subsequent offense within six months.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INSERT 2-3

2822Y ✓

1

SECTION 1. Subchapter VI of chapter 422 [precedes 422.601] of the statutes is

2

created to read:

3

CHAPTER 422

4

SUBCHAPTER VI

5

CONSUMER REPORTING AGENCIES

6

422.601 Definitions. In this subchapter:

7

(1) "Consumer report" has the meaning given in 15 USC 1681a (d).

8

(2) "Consumer reporting agency" has the meaning given in 15 USC 1681a (f).

9

(3) "File" has the meaning given in 15 USC 1681a (g).

10

(4) "Investigative consumer report" has the meaning given in 15 USC 1681a

11

(e).

12

(5) "Summary of rights" means the information a consumer reporting agency

13

is required to provide under 15 USC 1681g (c).

14

422.602 Disclosure to individual. (1) IN GENERAL. A consumer reporting

15

agency shall, upon the written request of an individual, provide the individual with

16

a written disclosure report within 5 business days after receiving the written

17

request.

18

(2) CONTENTS. The written disclosure report provided under sub. (1) shall

19

contain all of the following:

20

(a) A current consumer report pertaining to the individual.



INS 2-3
cont

1 (b) The date of each request for credit information pertaining to the individual
2 received by the consumer reporting agency during the 12 months before the date that
3 the consumer reporting agency provides the written disclosure report.

4 (c) The name of each person requesting credit information pertaining to the
5 individual during the 12 months before the date that the consumer reporting agency
6 provides the written disclosure report.

7 (d) The dates, original payees and amounts of any checks upon which any
8 adverse characterization of the consumer is based.

9 (e) Any other information contained in the individual's file.

10 (f) A clear and concise explanation of the contents of the written disclosure
11 report.

12 (g) A summary of rights.

13 (3) COST. A consumer reporting agency shall provide the written disclosure
14 report required under sub. (1) free of charge, unless the individual has requested a
15 written disclosure report from the consumer reporting agency during the preceding
16 12 months.

17 **422.603 Exceptions.** Notwithstanding s. 422.602 (2), a consumer reporting
18 agency shall not disclose to an individual making a request under s. 422.602 (1) any
19 of the following:

20 (1) The sources of any information that was both acquired solely for use in
21 preparing an investigative consumer report and used for no other purpose.

22 (2) Any credit score or other risk score or predictor relating to the consumer.

23 **422.604 Penalty.** A violation of this subchapter is subject to s. 425.401 (2).

24 ~~SECTION 422.604~~ ^{2822x} ✓ 425.401 of the statutes is renumbered 425.401 (1).

25 ~~SECTION 422.604~~ ^{2822z} ✓ 425.401 (2) of the statutes is created to read:



INS 2-3
cont

ASSEMBLY BILL 289

1 425.401 (2) Any person who violates s. 422.602 may be fined not more than
2 \$500 for the first offense and may be fined not more than \$1000 or imprisoned for not
3 more than 6 months or both for each subsequent offense occurring within 6 months.)

4

✓(END)

(end ins 2-3)

ASSEMBLY BILL 102

INSERT 2-4

SECTION 1

3113g ✓
① SECTION 1. 895.505 of the statutes is created to read:

2 **895.505 Disposal of records containing personal information. (1)**

3 DEFINITIONS. In this section:

4 (a) "Business" means an organization or enterprise operated for profit,
5 including a sole proprietorship, partnership, firm, business trust, joint venture,
6 syndicate, corporation, limited liability company or association.

7 (b) "Personal information" means personally identifiable data about an
8 individual's medical or financial condition that is not generally considered to be
9 public knowledge.

10 (c) "Personally identifiable" means capable of being associated with a
11 particular individual through one or more identifiers or other information or
12 circumstances.

13 (d) "Record" means any material on which written, drawn, printed, spoken,
14 visual or electromagnetic information is recorded or preserved, regardless of
15 physical form or characteristics.

16 (2) DISPOSAL OF RECORDS CONTAINING PERSONAL INFORMATION. A business may not ✓
17 dispose of a record containing personal information unless *the business does any of the following*

18 (a) Prior to the disposal of the record, the business shreds, erases or otherwise
19 modifies the record to make the personal information unreadable.

20 (b) The business takes actions that it reasonably believes will ensure that no
21 unauthorized person will have access to the personal information contained in the
22 record for the period between the record's disposal and the record's destruction.

23 (3) CAUSE OF ACTION. Notwithstanding s. 814.04 (1), a business that violates
24 sub. (2) is liable to any person damaged by the violation for the amount of damages
25 and for reasonable attorney fees.))

↓

INSERT 2-\$

1997 ASSEMBLY BILL 370

May 22, 1997 - Introduced by Representatives SCHNEIDER, BOYLE, LORGE, MUSSER, R. YOUNG, HASENOHRL, ALBERS, POWERS, RILEY, GRONEMUS, SYKORA, NOTESTEIN, MURAT, F. LASEE and GUNDERSON, cosponsored by Senator DRZEWIECKI. Referred to Committee on Small Business and Economic Development.

1 AN ACT *to create* 134.44 of the statutes; **relating to:** regulating the sale, lease
2 or rental by a business of records that contain certain personal information.

Analysis by the Legislative Reference Bureau

Under current law, no authority (defined, generally, to include a state or local office, elected official, agency, board, commission, council, department or other public body) may sell or rent a record (defined, generally, to include any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded) that contains an individual's name or address unless the release of such information is specifically authorized by state law.

Under this bill, no business enterprise may sell, lease or rent a record containing personally identifiable information about an individual without first obtaining written permission to do so from that individual. A person who violates these provisions is subject to a forfeiture not to exceed \$200.

~~The people of the state of Wisconsin, represented in senate and assembly, do~~

~~enact as follows:~~

81130

895.507

Sale or lease of personal

bold

3 SECTION 2. 134.44 of the statutes is created to read:

4 895.507 134.44 Personally identifiable information. (1) DEFINITIONS. In this
5 section:



ASSEMBLY BILL 370

SECTION 1

INS 2-5
cont

(a) "Business" means ~~any person engaged in a business enterprise for profit in~~
~~this state.~~ has the meaning given in s. 895.505 (1) (a) ✓

(b) "Personally identifiable information" has the meaning given in s. ~~895.505~~ ✓

(c) "Record" means any material on which written, drawn, printed, spoken,
 visual or electromagnetic information is recorded or preserved, regardless of
 physical form or characteristics, which has been created or is being kept by a
 business has the meaning given in s. 895.505 (1) (d) ✓

(2) PROHIBITED ACTIVITIES. No business may sell, lease ~~or rent~~ ^{or} to any person a
 record that contains personally identifiable information ~~without first obtaining~~
~~written permission to do so from~~ ^{if} the individual to whom the information relates, ^{name or}

has requested the business to
 refrain from selling, leasing or
 renting the name or information

(b) "Personal information" has the meaning given in s. 895.505 (1) (b) ✓

(end ins 2-5)

ASSEMBLY BILL 102

DISPOSAL OF PERSONAL INFORMATION

treatment
The ~~repeal~~ of section 895.505 of the
statutes and the treatment of
SECTION 935.8(5) of this act

SECTION 2. Effective date.

1

2

3

4

(1) This act takes effect on the first day of the 4th month beginning after publication."

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1292/1dn
RJM & JEO:.....

19

1. Please note that this draft adds an exception in proposed s. 138.25 (3) (b) for disclosure of credit card information to the holder of the credit card. Although this exception was not in AB-101, I assume you intend to allow a person to obtain his or her own credit card information. Please let me know if this treatment is not consistent with your intent.
2. This draft includes initial applicability sections for the treatment of proposed ss. 138.25, 895.505 and 895.507 and subch. VI of ch. 422. Please review these initial applicability provisions and let me know if they are not consistent with your intent.
3. I did not have any specific information regarding the request to allow a person to remove his or her name from lists that are sold or marketed. Please review the treatment of proposed s. 895.507 and let me know if you desire any changes.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb1292/1dn
RJM:jlg:kjf

June 26, 1999

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Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us